

COMMISSIONERS PROCEEDINGS  
APRIL 25, 2006  
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stuart, Morris, and Boldt, Chair, present.

**9:45 A.M.**

PROCLAMATION

Commissioner Boldt read a proclamation declaring the week of April 23 through 29, 2006 as National Crime Victims Rights Week in Clark County.

*Mary Todd*, Victim Advocate, Prosecuting Attorney's Office, accepted the proclamation.

SPECIAL PRESENTATION

*Charlie Masco*, Department of Public Works, introduced Tom Eaton, Environmental Protection Agency (EPA).

*Tom Eaton*, Environmental Protection Agency, Region X, presented a plaque to the Board of County Commissioners for Certification of Compliance to an Environmental Management System, ISO 14001, which the Equipment Services section recently completed and attained. Mr. Eaton stated that an environmental management system would help the county deal with all of its environmental issues related to fleet services. Additionally, it would help the county to continually reassess its operations as things change and make improvements.

*Masco* recognized Pete Dubois and Bill Girard for their work in obtaining this achievement.

*Pete DuBois*, Department of Public Works, said they were looking forward to expanding the environmental management system. He said they were going to be expanding to the Facilities section and would be looking at ways to conserve energy, water, and run county buildings more effectively.

**10:00 A.M.**

*The Board of Commissioners adjourned and convened as the Board of Health (Commissioner Morris absent for this portion of the hearing)*

PUBLIC COMMENT

There was no public comment.

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CONSENT AGENDA

There being no public comment, **MOVED** by Stuart to approve items 1 through 3. Board members Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

BOARD OF HEALTH COMMUNICATIONS

*Marni Storey*, Health Department, updated the board on the situation regarding the recent norovirus outbreaks at two local assisted living facilities. Ms. Storey said they were able to declare the outbreak at Cascade Retirement Inn as officially over; and the Van Mall Retirement Inn had significantly slowed down. She said that overall there had been approximately 220 residents, staff, and healthcare workers who became ill; with 61 being public health employees—40% of the Health Department's work force. She stated that these incidents helped to better prepare them for possible public health emergencies.

*Stuart* expressed appreciation for the hard work of the Health Department. He asked if there would be a debriefing.

*Storey* responded that they do debriefings every time there is an outbreak, and two are scheduled pertaining to policy and operations. She briefly explained.

*Adjourned and reconvened as the Board of Commissioners*

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD 2441

Reconvened a public hearing for Bid Award 2441 – Jail Cover Plates. Mike Westerman, General Services, read a memo recommending that Bid 2441 be awarded to the sole bidder.

There being no public comment, **MOVED** by Stuart to award Bid 2441 to High Tech Manufacturing Services, Inc., of Vancouver, Washington, in the total bid amount of \$15,487.57, including Washington State sales tax, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Boldt and Stuart voted aye. Commissioner Morris absent. Motion carried. (See Tape 268)

BID AWARD 2442

Reconvened a public hearing for Bid Award 2442 – Annual Slurry Seal. Mike Westerman, General Services, noted that there was a letter of protest for this bid and indicated that Chris Horne of the County Prosecuting Attorney's Office was present to

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further explain. Mr. Westerman read a memo recommending that Bid 2442 be awarded to the lowest bidder.

*Chris Horne*, Prosecuting Attorney's Office, stated that he had received a copy of the letter of protest from the law firm of Winston and Cachou regarding a challenge from Blackline, the second low bidder, of the award in this case. Mr. Horne said the uniqueness of this bid was that for public road projects the standard specifications that govern how they are to be bid and sales tax is to be paid for is clearly covered. He noted that public road projects on state roads are treated differently than public road projects on county and city roads; for sales tax portions for county and city roads, the standard specs and state laws require that the contract to be treated is the consumer so when they buy the materials for the project, the contractor is required to absorb the sales tax or tax on that project and incorporate that into their base bid per unit. He said there shouldn't be a separate heading on the bid form for Washington State Sales Tax on the bottom of the bid, but in this case there was. Horne said they received a question from Blackline and according to their attorney, Mr. Vance, they were correctly advised to ignore the sales tax portion of the line item and calculate the tax on the materials only; however, they included it on the sales tax line rather than into their unit pricing. Horne said contact was made with the low bidder to find out whether or not they misunderstood and they indicated that they correctly included Washington State tax on the bid units the way they were directed to under the standard specs, but they also included sales tax at the bottom because the form instructed them to. He said staff has been advised that they can treat this sales tax line as duplicative and as an immaterial irregularity and award to the low bidder. He said that as applied to this particular case Blackline indicated that, "...based on these instructions and confirmation, Blackline listed on the sales tax line item the amount of \$26,886, representing the amount of use tax on materials only." Horne said that's actually not correct because if you calculate the tax on the materials only, that figure comes to \$64,300; and had they filed the bid form itself, which calls for 8.1% of the total, they would have come up with a much higher figure. So while there might have been some confusion as to the line item on the county form, the standard specifications were clear and when Blackline contacted the county they were informed of that correction and told to ignore the tax line item, and in no event did they end up being the low bidder. He said that for those reasons, he believed the board could award to the low bidder as indicated by the Purchasing Department.

*Morris* wanted to know where the 8.1% came from.

*Westerman* stated that this particular bid was a joint bid and included Clark County, the City of Vancouver, and the City of Camas and they simply used the higher tax rate.

There being no public comment, **MOVED** by Stuart to award Bid 2442 to Intermountain Slurry Seal, Inc., of Watsonville, California, in the total bid amount of \$837,837.68, and grant authority to the County Administrator to sign all bid-related contracts. Morris added to the motion that there was the understanding that the bid form would be corrected. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

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PUBLIC COMMENT

*Jeff Stanton* commented on the National Crime Victims Rights Week proclamation that was read earlier by the board. Mr. Stanton stated that there is a major problem with crime in the nation. He provided FBI crime statistics from 1999 through 2004, which totaled 79,852 murders in the United States within a 5-year period as compared to 59,000 deaths during 15 years in Vietnam. Mr. Stanton presented to the board a copy of the United States Constitution and read Section 4 of Article IV, page 15, regarding protection against domestic violence. Stanton suggested that the board contact our state senators, congress members, and Governor, and make the recommendation that military bases that have been closed be turned into facilities to put individuals who are addicted to drugs, for example. He urged everyone to turn the system around.

CONSENT AGENDA

There being no public comment, **MOVED** by Stuart to approve items 1 through 13. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

PUBLIC HEARING: MIXED USE ORDINANCE, MASTER PLANNED DEVELOPMENT ORDINANCE, AND MIXED USE DESIGN STANDARDS

During the last update of the Clark County Comprehensive Growth Plan, the Planning Commission and Board of Commissioners conducted hearings regarding the mixed use district. Based on testimony at those hearings the board decided that further refinement of the mixed use code to include design standards was needed. In September 2004 the Board appointed an eight (8) member advisory committee to a short-term work program that culminated in the adoption of an interim mixed use code CCC40.230.020 on December 14, 2004. The committee met between September 2004 and January 2006 and developed an enhanced ordinance to regulate mixed use developments, associated design standards and amendment to the master planned development ordinance to include mixed use developments. This hearing will consider the proposed ordinances.

The mixed use ordinance CCC40.230.020, master planned development ordinance CCC40.520.070, mixed use design standards Title 40 Appendix D, and updating summary of procedures and processes CCC40.500.010 to include mixed use project approval timelines are available on the county's web page at <http://www.clark.wa.gov/longrangeplan/projects/mixed-use.html>. Copies of the materials are also available at Clark County Community Development, Long Range Planning, 1300 Franklin Street, 3<sup>rd</sup> Floor, Vancouver, Washington. Hearing continued from March 14, 2006 and April 4, 2006. The record was closed on April 4, 2006, and no public comment was accepted at this hearing.

*Bob Higbie*, Department of Community Development-Long Range Planning, summarized that at the previous hearing the board had indicated that staff make some changes. Higbie

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went through the each change, beginning with pages 2 and 3, and two deletions that would limit the size of the footprint of general retailers and hardware home repair and supply stores to less than 50,000 square feet. Also, there was one addition regarding attached single-family dwellings being limited to 30% and on page 5, #2, there needed to be a correction to the footnote by deleting the word "they" and inserting, "provided that single-family detached account for no more than 30% of the total dwelling units on the development site." So the "attached" does not apply attached buildings.

*Morris* asked if that would mean that 30% of it could be single-family detached and 30% could be single-family attached.

*Higbie* said the only limitation on the percentage would apply to the single-family detached, single-family dwelling on a single lot. He said it wasn't intended to apply to any of the attached dwellings. He then referenced page 6 and said the density minimums were changed from 18 to 12, and if the development site is less than 50 acres, the residential use shall contain 3 permitted housing types as set forth in the Mixed Use Design Standards; if the development site is more than 50 acres, the residential use shall contain 4 permitted housing types.

*Stuart* said this is prescriptive language that is very exact and that they need it to read "a minimum of 3" or "a minimum of 4".

*Higbie* said they would insert "minimum".

*Snell* said there had been some questions about something less than 2 acres and he commented that it might be difficult to get 3 types on less than 2 acres. He asked the board if they would want language such as, "if development is greater than 2 acres, but less than 50..."

*Morris* said she would be willing to say "greater than 5 and less than 50 acres..."

*Boldt* asked if that was okay.

*Stuart* said that was fine with him.

*Higbie* referenced the Design Standards, page 46, and the recommended change to the language that deals with the height of structures adjacent to different zoning to now read, "Development of all structures within 50 feet of the exterior property line of the development, except when adjacent to public roads, shall not exceed the building height and setback limitations established for the zoning abutting the development site."

*Morris* asked if that got where they wanted to be because anymore building heights and single-family residential can be very tall.

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*Stuart* said he thought that got them there and he thought they would still get a nice tiering. Also, the language would take care of the first layer of housing or of building adjacent to an existing property, and the added setbacks language was a good change and clarified that everyone has to have their regular setbacks.

*Snell* said he thought it would be appropriate to add to the language on the third line, "exceed the building height and be no less than the setback."

*Higbie* said the board had also requested that an individual prepare a diagram of that and a copy had been provided.

There being no further discussion, **MOVED** by *Stuart* to approve Ordinance 2006-04-18 – Mixed Use Ordinance, Master Planned Development Ordinance, and Mixed Use Design Standards, with the amendments as discussed. Commissioners *Boldt*, *Stuart*, and *Morris* voted aye. Motion carried. (See Tape 268)

*Morris* thanked staff for their work on the notebook, which was very well done.

*Boldt* thanked staff, the Planning Commission, and the work group for all their work on this.

*Stuart* echoed those comments and said the ordinance was innovative and moved them forward to seeing mixed use in the county.

PUBLIC HEARING: BUSINESS PARK/LIGHT MANUFACTURING REZONE

The Board of Commissioners passed Ordinance 2004-09-02 on September 7, 2004 (Comprehensive Plan and Zoning Map Adoption), rezoning certain properties from Light Manufacturing (ML) to Business Park (BP) in the unincorporated area of the Vancouver Urban Growth Boundary. The Board rezoned a number of those BP zoned parcels back to ML by an emergency ordinance in 2005. The remainder of those BP zoned parcels are also being considered for rezoning to ML at this hearing.

The purpose of this public hearing was to confirm the rezoning decisions made by the Board through adopted emergency ordinances in 2005 and to also consider whether to change the zoning from BP to ML for certain properties. Hearing continued from April 18, 2006. The record was closed on April 18, 2006, and no public comment was accepted at this hearing.

*Bob Higbie*, Department of Community Development-Long Range Planning, presented. *Higbie* stated that staff and the Planning Commission recommended certain changes, returning most of the BP zoning back to ML. He said they had one addition resulting from a request via email, which they had received the previous evening, to change some property from BP to ML. He asked the board if they wished to entertain the request.

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*Boldt* said yes.

*Morris* wanted to know where it was and what the circumstances were.

*Higbie* said it was on Map 1, between 10<sup>th</sup> Avenue and I-5, approximately in the middle of the map. He said the two middle lots were the ones that were being requested to change from BP to ML. They indicated that that area was the sole remaining area that meets the locational criteria for BP and that is why they had recommended that it stay BP. He further explained the request. He said one lot was 6.7 acres and one was 2 acres and the Mark Brislawn was the individual who sent the email.

*Morris* asked Mr. Lowry if they had to do a notice.

*Rich Lowry*, Prosecuting Attorney's Office, explained that the notice given for this consideration was broad in the sense that it would have allowed the board to take action on any of the properties originally zoned BP. He said the awkward issue here was not the original notice, but the fact that this request came in after the board had closed public testimony. He said since this is a legislative proceeding, however, he couldn't advise the board that they were unable to consider the manner. With a legislative hearing the ex parte contact rules that apply to quasi-judicial matters does not apply here. He said the individual making this request could have come up to any of the board members and asked them to consider adding him to the list and if the board were inclined to do so, even after the close of the hearing, they could have. Lowry said another awkward circumstance was that this property owner doesn't own all of the parcels in that area and his understanding from staff was that if the board took up the request, they would have to look at the other parcels and change them also, and the owners of those parcels would have no idea about the late request.

*Stuart* asked for further clarification about the parcels involved.

*Higbie* said the parcels to the north and south of the parcels in question, if they were changed back to ML, would become spot zones and it wouldn't make any sense to keep them as BP zoning.

*Stuart* asked if BP and ML relatively compatible.

*Morris* said they have different kinds of uses and setbacks, landscaping standards, etc. She asked Mr. Lowry if the normal process would be the annual reviews.

*Lowry* said the board could decide that this request simply comes too late. He said he assumed the owner had received the notice that was sent to all BP owners and could have come in earlier, but did not. He said this does put the board in an awkward position, but he could not advise them that they were precluded from considering the request.

*Stuart* wanted to know what the zoning to the west of the parcels was.

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*Higbie* said ML.

*Stuart* asked if they were already an island of BP within ML.

*Higbie* said yes, in a sense it is an island.

*Boldt* confirmed that they would not be handling this request.

*Morris* asked if it was correct that the landowner would be welcome to come through the annual review process or ask for the zone change when they do the comprehensive plan.

*Lowry* said absolutely. In fact, on the current comp plan the property owner wouldn't have to come through that process and he could simply make application for a zone change.

*Morris* said they could do it later then.

*Stuart* asked staff to get word to the property owner to explain his options for moving forward.

*Higbie* said he would do that.

*Boldt* asked if they had an ordinance number.

*Higbie* said that because of the last minute changes they would be putting the ordinance on the consent agenda for the following week.

There being no further discussion, **MOVED** by Stuart to approve the rezone from Business Park (BP) to Light Manufacturing (ML) as outlined in the staff report, with the ordinance to be added to the May 2, 2006 consent agenda. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

*Stuart* commented that he thought there was a lesson to be learned, which for him was that before they do rezones they make sure to do their homework as far as what makes sense on the ground for business owners and landowners.

PUBLIC HEARING: ORCHARDS PARKING PLAN

Held a public hearing to consider the Orchards Parking Plan. This Parking Plan would designate on-street parking within an existing parking lot built on county right-of-way alongside NE 109<sup>th</sup> Avenue north of the Orchards Plaza.

*William Wright*, Department of Public Works, presented. He summarized that they had received a proposal from a business owner in the Orchards area who was seeking to



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redevelop his property due to the previous structure burning down. Mr. Wright said that according to County Code, if a neighborhood parking plan is created, some of the spots within that plan can be used as parking credits towards the development of a property. He said they looked at the specific area for the parking, which was in a zone specifically created for parking in that area as a result of the Fourth Plain project done by Public Works a number of years ago to supplement parking. He said Public Works has proceeded forward and the petition has been signed by the business owner, Mr. Griffey.

*Stuart* said it seems like a great partnership between the county and the landowner.

*Gary Brown* stated that he is the property owner of the other adjoining business to the parking lot. Mr. Brown expressed appreciation for the job the county's doing in the Orchards area in terms of rejuvenating the area. He said he had one concern pertaining to a long-established access between what is now the parking lot, running along the north side of his property and mostly on Mr. Griffey's property, and his security/safety door, which is on that side of the building.

*Stuart* asked Mr. Brown what the property address is.

*Brown* replied that it is 5905 NE 109<sup>th</sup> Avenue. He noted that Mr. Griffey has been very good to meet with them and explain his proposal. He reiterated that he's concerned that if Mr. Griffey puts a building a foot and a half off the property line, he wouldn't be able to open that safety door.

*Boldt* asked Lowry for direction.

*Lowry* said that without a site plan he wasn't able to follow what the concern is.

*Stuart* explained.

*Lowry* said he didn't know how the concern was related to the parking plan.

*Brown* said that currently the parking lot is connected to the driveway that goes along that side of the building and so it could close an access.

*Wright* said they were aware of the issue, but it's most properly a Community Development Site Plan Review issue.

There being no further comment, **MOVED** by Stuart to approve Resolution 2006-04-19 – Orchards Parking Plan. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

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EQUAL EMPLOYMENT OPPORTUNITY PLAN

Held a meeting to consider updates to Clark County's 2-year Equal Employment Opportunity Plan prior to submitting the plan to the Department of Justice. The plan reaffirms the County's commitment to be an equal opportunity employer, provides an analysis of workforce demographics, and sets goals and action plans in support of the plan.

*Francine Reis*, Director, Human Resources, presented. Ms. Reis explained that this was plan that updates the biannual EEO Plan, which is submitted to the Department of Justice, and provides an analysis of the county's workforce as compared to the labor market and also sets some goals and action plans to address areas of underutilization, as identified in the plan. She said that this plan was the same one as presented at a board work session.

*Boldt* noted that although there would be an opportunity to make suggestions for changes to the plan, there is always an opportunity to address the plan.

*Reis* said that was correct and that the plan contains action steps for continued outreach and evaluation of candidates, but that doesn't preclude them from further supplementing the plan with any new ideas that come forward.

[Public testimony opened.]

*Earl Ford* stated that he was disappointed in the content of the EEO plan, especially the review process. Mr. Ford noted that they received the plan only a week prior to the hearing and they did not have adequate time to thoroughly review it.

*Boldt* asked staff if there was a timeline for the plan.

*Reis* responded that there was a due date for submitting the plan to the Department of Justice by this month. She said that it's a plan that they are required to submit for grant compliance every two years.

*Boldt* wanted to know how much time they have if they want to make any revisions.

*Reis* said by the end of April.

*Ford* said there are number people who have come to the hearing who have concerns about the plan. He said they would have preferred to have time to go over the plan at meetings held by the NAACP and/or Black Entrepreneurs of Clark County, and to have been able to discuss it with Mr. Barron and Ms. Reis. He said one issue is how data is displayed and they have suggestions for better ways to do that. Mr. Ford provided a document to the board, which outlined a recommended format for displaying data.

*Morris* asked Mr. Ford when he had received his copy of the plan.

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*Ford* said he received an electronic copy from Ms. Reis the previous Wednesday.

*Reis* added that this plan was tailored after the previous year's plan, which was accepted by the Department of Justice. She said that wasn't to say that another plan could be developed or other additional opportunities for additional input or revisions taken into account.

*Ford* said if they do what they have always done, they will get what they have always gotten.

*Deena Pierott*, President, National Forum for Black Public Administrators-Oregon Chapter, serving Oregon and Southwest Washington; and Board Member of Northwest EEO, serving Oregon and Southwest Washington, stated that she reviewed the plan, which it appears to be a standard plan that will get approval at the next level. However, she agreed with Mr. Ford that this type of communication needs to be reviewed and have representation from all communities of color for the language of the plan. Ms. Pierott said she personally wanted to know what the accountability schedule was for the actions and initiatives. She said there weren't any and it was very vague. She encouraged the board to have addendums added to the plan within a timeframe of six months, so that they don't have this plan in place for two years. She offered to be a resource for further information.

*Morris* asked Ms. Pierott what she did for the City of Portland.

*Pierott* responded that she works for the Bureau of Transportation and is also creating a Human Relations Commission.

*Shareefah Abdullah*, President, Hot Ovations Communications, Coaching, and Training Company; and Founder/Facilitator of Black Entrepreneurs of Clark County, stated that the plan largely mirrors the previous plan and is flawed and not ready for approval. Ms. Abdullah said it's procedurally and substantively flawed. Procedurally, she said the plan hasn't been given the public involvement opportunity it deserves and there should have been focus groups and a substantial amount of time for the opportunity to comment. Abdullah reiterated that substantively the plan is also flawed and mirrors the previous plan, which did not prevent the county from maintaining low numbers of minorities in the county workforce, and advisory boards and commissions. She further explained. She commented that the plan did not prevent the county from laying off the only African American who worked for the Southwest Washington Health District when Clark County took over the agency, and it didn't prevent the county from appointing a county employee from the Board of Commissioners office to replace the retiring Public Information and Outreach Director. She noted that Clark County has never had a minority serving in executive level and directorial classified positions. Abdullah said the plan has exposed several things, one being that Clark County government and administration does not have the confidence of many community members and that it's known as a "hard nut to crack" when it comes to minority hiring. She said they want to see five things: 1) substantial

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public involvement; 2) a plan that raises the bar on diversity goals; requires competitive recruitment for all positions; 3) enforcement of the plan; 4) better public process; and 5) working together.

*Morris* asked Ms. Abdullah who she was referring to when she uses the pronoun “we” and how many people that refers to.

*Abdullah* said she was referring to hundreds of people within the community.

*Stuart* referenced Ms. Abdullah’s earlier comment about a common quote that the county is a “pretty tough nut to crack” and wanted to know where that quote originated from.

*Abdullah* said it comes from minority communities within Clark County and beyond and is a quote that began with one person and spread.

*Stuart* said then it’s not an individual quote, but an adage that’s used by a community.

*Abdullah* said the county has a reputation and it’s encapsulated in that quote.

*Charles Smith*, Portland State University, referred to the current plan, as well as the previous one and the references to goals for promoting diversity, one being to assure that managers and supervisors support a diverse workforce and consider that while making hiring decisions; and to conduct reviews of applicant pools and staffing decisions to identify opportunities for improving county practices in support of diversity. Mr. Smith stated that he looked over the statement of policy and didn’t see that diversity was mentioned there. He said his concern with the policy was that the commitment to diversity wasn’t really spelled out in the policy statement so it would be difficult to hold staff and managers to changes when it comes to goals.

*Boldt* asked Mr. Smith if he had specific suggestions that he could submit.

*Smith* said he would be happy to work with staff.

*Morris* asked Smith where he had worked in Clark County.

*Smith* responded that he had worked for Behavioral Sciences Institute, managing the Vancouver/Clark County site when it opened in 1991 and later worked in the Administrative Offices in Federal Way as an Assistant Director.

*Morris* wanted to know if Smith followed job openings in the County.

*Smith* said that Mr. Ford referred those to him.

[Public testimony closed.]

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*Boldt* pointed out that the deadline was the following week.

*Stuart* wanted to know what they were specifically required to submit by the deadline and what the repercussions would be if they did not meet the deadline.

*Bill Barron*, County Administrator, responded that this was a specific requirement of a condition for the Department of Justice grants that they receive. He said if the board wanted more time, they could contact the Department of Justice and make this request, explaining that the Board of Commissioners wished to have more time for review and public input. Mr. Barron said that if they do not meet the deadline, it could jeopardize the funds; however, if they err on the side of wider public comment, he didn't believe the Department of Justice would be harsh.

*Boldt* asked if there was a sunset on this.

*Barron* said no, that it's an ongoing requirement.

*Boldt* wanted to know if they could contact the Department of Justice to let them know the plan has been reviewed and there just needs to be some changes made.

*Barron* said yes.

*Morris* said that was fine and she was going to suggest that they go ahead and adopt the plan, but instruct staff to develop a work program for the addendums with Mr. Ford. She asked Mr. Ford if he would be willing to help with that.

*Ford* said he was always willing to help, but his preference would be to ask for an extension.

*Morris* said that was fine too.

*Stuart* said if they send a letter to the Department of Justice explaining that they want to take the time to ensure they have a plan that goes above and beyond the minimum requirements and work with minority communities to make the plan better, his sense was that they would get a positive response.

*Boldt* asked if that was agreeable to staff.

*Barron* said they would follow-up with the Department of Justice and let the board know what they say.

*Morris* asked if they could fax a letter today.

*Barron* said yes.

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*Morris* suggested they continue the public hearing to May 2 and wait to hear back from the Department of Justice. She asked that in the meantime Ms. Reis meet with Mr. Ford to discuss a public input process that's workable.

*Boldt* also suggested that should they have to adopt the plan on May 2, that they put an addendum about how they're going to change the plan within the next six months working with groups, etc.

There being no further comment, **MOVED** by Stuart to continue the public hearing regarding the Equal Employment Opportunity Plan to May 2, 2006, at 10:00 a.m. in the Commissioners' Hearing Room, Public Service Center, 6<sup>th</sup> Floor. Commissioners Boldt, Stuart, and Morris voted aye. Motion carried. (See Tape 268)

PUBLIC HEARING: URBAN HOLDING

Held a public hearing to consider rezoning properties in portions of the northern Vancouver Urban Growth Area with the Urban Holding overlay to the underlying zoning district. The Board may also review draft development agreements to assure that the requirements of the Comprehensive Plan and UDC provisions are fulfilled.

**\*\*Verbatim\*\***

BOLDT: We will now move on to the public hearing of Urban Holding. If we could have Mr. Lowry do a short remark...Mr. Snell.

STUART: I was wondering if we had a full house how many people we would hold throughout. It's always interesting to see what people are here for. The vast majority were here for this.

RICH LOWRY: Very quick remarks from me. We do have a draft resolution, which would actually lift urban holding for what's being called Subarea A and would provide board findings regarding the other subareas G through M that would allow lifting of urban holding upon approval of development agreements. That draft resolution, which really encompasses the staff recommendation, has not been available for public review. It's been generated only in the last few days. If the board is inclined to conclude action today, my recommendation is that you leave at least the written record open so folk have an opportunity to make comments on the specific words of the resolution. I actually have

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a slew of additional edits to it that are primarily grammatical and don't really change the substance of it at all, and we could certainly have a final staff recommended resolution available this afternoon so everybody could see it.

Essentially, the resolution concludes that for Subarea A there's no need for a separate circulation plan; that the existing infrastructure is adequate and that there are no issues regarding the ability to provide infrastructure services and, therefore, that area is right for removing urban holding. As to areas G through M, the resolution concludes that all services, other than schools and roads, are available and can be provided through the normal development review process under current county requirements. That leaves schools and roads. As to roads, the resolution concludes that there are two issues that need to be addressed. One relates to regional infrastructure issues; that issue can be addressed through the board adoption of enhanced TIP payments – essentially having to do with regional intersections with state or county arterials are better, which are going to probably in the most part requires great separation, very expensive and allowing these developments to go forward without the county having addressed that issue is premature in staff's opinion, but could be addressed through a development agreement, which the developers commit to paying enhanced TIP fees if the county so adopts when some reasonable period of time. The second road issue has to do with the local infrastructure. The issue essentially is that there is likely to be certain connections are intersection improvements that are necessary for these subareas to immediately develop. The identification of those essential links and intersections has not yet been completed although work is now underway through both county consultants and consultants to identify those important projects; that they all would be portions of what already is in the circulation plan for these areas, but the analysis as to timing hasn't yet occurred. Again, these are issues that can readily be addressed in a developer agreement once we know specifics so the—well, the second issue is schools. The development community has been meeting with the Battle Ground School District. The Battle Ground School District has provided a letter to the development group indicating what they believe is necessary for them to conclude that adequate public school facilities can be provided to serve these

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urban holding areas in the short term. Those requests from the district are included in the resolution verbatim. We understand from discussions with the development interests that both the road needs and the school needs are conceptually acceptable through development agreements although, again, they are looking for hard numbers, which we don't have at this point. The resolution then indicates as to areas G through M that the board is prepared to lift urban holding; the resolution contains findings that would allow lifting of urban holding if development agreements are presented that address the road and school issues.

Again, the resolution, I think, is adequate and defensible and could be adopted today if you're able to get through a public hearing, but because it hasn't been available for public review my recommendation would be that you carry this over and allow an opportunity for at least written comment on the form of the resolution.

BOLDT: Okay, thank you. Marty?

MARTY SNELL: Yes, good morning, Commissioners. Marty Snell, Long Range Planning. Just a couple of comments, in terms of when this started it was August 2005 that the Board of County Commissioners directed the Planning Commission to review urban holding and ways to remove urban holding. The Planning Commission on October 20, 2005, held a public hearing. It went late into the evening and they did make a recommendation to remove urban holding on all areas, A through M, and that was on a 4 to 2 vote. Since that public hearing of the Planning Commission, you've held two work sessions to review the issues...ways to approach the issue. Ms. Schulte will kind of give a run down on the transportation side. I will point out in the draft ordinance the language about school facilities comes directly from a letter dated March 13, 2006 from Marnie Allen of Allen Law Office. There are five points to this letter—and I have a copy of this for you to look at—that we lifted and placed in the ordinance so with that I'll turn it over to Steve on transportation issues, very quickly.



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STEVE SCHULTE: Good morning, Commissioners. Steve Schulte with Public Works, I have two very quick graphics I'd like to show. Commissioners, we've identified two areas in the greater Orchards-Sifton area. One we've titled Local Improvements Area and the other Orchards District TIF Surcharge Area. The upper one is the local area; the lower one is the regional area. Louise, let's go to the next graphic. Real quickly, what's going to happen in each of those areas: the Local Improvements Area, the improvement we're talking about being provided within that area, fronting roadway, internal roadways to the G through M, and then close-in roadway connection improvements. Those are the types of road improvements we'll see. What's proposed now is that they be developer-funded via developer agreements and the improvements themselves, a lot of turn lanes, widening, and traffic signal installations. The second heading, the Regional Improvements, it can be an impact fee surcharge to the Orchards district. Right now the TIFs that are paid in Orchards are based on a 1999 CFP rate base; we'd simply upgrade that rate base to reflect the September 2004 CFP so we'd have an updated rate base with better recovered dollars into our TIF accounts. Those improvements would consist of intersection rebuilds and grade separated interchanges. And that third heading—I wanted to follow up with the board. There's going to be some real positive spin-off benefits from this work we're doing in the first two headings. We're going to be developing some standard form developer agreements that will have use with this activity plus future comp plan activities and then our cost estimating methodologies and our traffic engineering work that we use to identify roadway improvements...we're going to bolster the tools we have now. Historically, we do conceptual cost estimating and roadway improvement identification at the conceptual level for CFP-type work, for comp plan-type work, and we have very detailed tools we use for capital projects and design work. We don't have a lot of tools in between those two. So what this effort will result in is some databases and tools that kind of span that middle area so future comp plans can take advantage of these databases and estimating tools.

STUART: How?

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SCHULTE: Just simply refined cost estimates. We're going to have more data points in our cost estimating database to work from. Again, past CFPs...the CFP you're currently working on use conceptual cost estimating; they do conceptual traffic estimating that identifies improvements. What we're going to have coming out of 2 and 3 is much more detailed cost estimating.

STUART: So we'll have a better idea of the costs and how to allocate them?

SCHULTE: Correct.

STUART: Thank you. Good, just trying to break it down.

LOWRY: Two very quick comments. First, in terms of the Planning Commission recommendation, the Planning Commission recommendation was really based on a legislative conclusion that urban holding didn't really make a lot of sense in these areas. But it did not address the criteria that is in the comp plan for removing urban holding and you don't have any recommended findings from the Planning Commission that you could rely upon to address those criteria. So unfortunately the base work hasn't been done at the Planning Commission level and that's why you are seeing a lot of material here that the Planning Commission didn't have. The second general comment is that for those who are not aware of it the area that we're talking about in the north Vancouver additions to the urban growth boundary have been divided by staff into subareas A through M and what staff is recommending is that the board consider lifting for subarea A and contingently lifting for subareas G through M, but taking no action as to subareas B through F. B through F are clustered around the 179<sup>th</sup> interchange and it's staff's conclusion that the concurrency issues related to that interchange are such that it would be premature at this point to lift urban holding from the subareas that are clustered at that location.

STUART: One of the – and we have a written document...paper that was put out at our last work session on this subject on why is it so hard? Marty, could you just address that

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quickly? God love you, Rich, but when you speak, you're speaking legal speak as far as the urban holding...why it was so hard to deal with. Marty, can you kind of break it down a little bit for us as to...why is it is so difficult? Why has it taken us since August of last year and why are we still kind of working through this?

SNELL: Well, one critical piece in a finding is that we have adopted circulation plans. A circulation plan is essentially a transportation network of collector and arterial streets. It takes time and a public process to adopt circulation plans. Last fall the Planning Commission considered a circulation plan around SR-503 and then the board, in December, adopted that circulation plan, and we do not have that same circulation plan for areas B through F. So that's one of the difficulties is that you need those circulation plans adopted and the board has not done that, except for the SR-503. The other is that simply removing the language from the comprehensive plan can only be done once a year and we're in the middle of a plan update and we don't see concluding that until the end of the year, so to remove the language now would not be allowed because we're in the middle of a plan update essentially.

STUART: And even if we removed the language, if we were in the right time cycle, Rich, what happens then if we just remove the language?

LOWRY: The last hearings board decision that we got concluded that based upon the county record, the county needed a device to phase in growth with an additional subareas; that we needed a way to ensure that development didn't out-phase infrastructure. So some sort of technique is necessary and the hearings board specifically said urban holding was one option. The essential issue is although the plan balances out long-term between land use development and infrastructure there may be some conflicts short-term if needed facilities can't be provided. So there needs to be an analysis done to show that the plan balances out short-term, as well as the twenty years, and that's an additional complexity.

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STUART: Thank you. One last question before we move forward and that is again for you Rich, so sounds really difficult, what happens if we don't lift urban holding? What are the possible...what negative could come out of not going ahead and doing it and just saying that we're just going to leave it until whenever, and we may or may not lift ever?

LOWRY: Well, the county has an obligation under the GMA to provide a twenty-year vacant buildable lands capacity for the population projection that the board's landed on so the hearings board has made it clear that that land supply doesn't have to be available day one, but it needs to be available during the twenty-year process. So if not now, we've got to lift it at some point in the future.

BOLDT: Okay, thank you very much.

MORRIS: I have questions. The developer agreements that we're contemplating apply only to those developers who sign then, or anyone else? Or do we just not approve applications from anyone who hasn't signed the developer agreements?

LOWRY: The criteria for lifting urban holding is that it has to be done on an area-wide basis. The analysis that's been done is being done, and we're specifically talking about G through M, looking at that as a combined area. However, the conclusion is that urban holding should only be lifted now if development agreements are in place to address the school and road issues. So what the resolution contemplates is that any property owner signs an acceptable developer agreement that addresses those two issues will have the urban holding lifted. Now that requirement for a development agreement under the resolution goes away after the county adopts an updated TIP program, at which point the urban holding would be lifted for the entire area, which would still obviously remain subject to concurrency and safety requirements that are normally addressed through the development review process. What's contemplated is that it would be a selective removal of urban holding only for those – in the short term only for those properties whose owners enter into a development agreement. We have a group of developers obviously now who

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are anxious to proceed and the resolution would allow any other property owners who want to have urban holding lifted to enter into a similar development agreement and have it lifted for their properties also.

MORRIS: This is a dissimilar approach to the pipelines in '97 or '96, where the developers actually built the necessary improvements.

LOWRY: We don't know how similar it's going to be until the analysis is done that indicates the magnitude of local improvements that are necessary. If the analysis indicates that it's relatively minor improvements that are necessary, then it may turn out not to be like pipeline one. If there are significant improvements, then it could be very much like pipeline one.

MORRIS: Okay. Now, for those developers who do sign a developer agreement, concurrency still applies; they will not be exempted from concurrency just because they've signed a developer agreement?

LOWRY: The resolution would contemplate that they would have a concurrency determination...a concurrency approval as to local improvements; that is the roads in the immediate area. That would be based upon the analysis that accompanies the determination, but they would not receive that same guarantee as to the region if there are

—

MORRIS: Okay. Now when it comes to schools I'll wait to hear from Ms. Hicks. Do these developer agreements then require us to amend our TIPIT, so that we move improvements further up on our TIPIT? Because it's still a three-year issue and if these aren't on it, we have to amend — is that correct?

LOWRY: The amendments...that could turn to be true, primarily for the local improvements, to the extent that some of those local improvements may be eligible to be

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put on the TIP program and, therefore, have an inner relationship with the TIPIT. For the regional projects, I don't think it's anticipated that anything more than an enhanced impact fee to address the regional issues would occur. There would not be a contemporaneous change to the timing of projects.

MORRIS: So those regionals are already on it? Because only if they're in the three-year regionally funded...which would mean that they would be on the Transportation Improvement Plan.

SCHULTE: Some of the regionals are already on the six-year TIP, but it is true that when we get to know the region and the local area better, the priorities may shift and some of the local or the regional improvements may move up time wise; they may become higher priority.

MORRIS: I can't remember how they're aligned, but it seems to me from just remembering what needs to be done out there that they're not within the three-year window.

SCHULTE: That's correct.

LOWRY: The analysis to date has suggested that the regional improvements will not pose a concurrency issue short-term. They will long-term, but not short-term. So it doesn't appear that timing is critical to this issue.

MORRIS: Okay, thanks.

BOLDT: Thank you very much. I'm going to kind of bring you up in groups. Jim Nielsen? Okay, and Chester Knapp? Come on up, both of you.

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JIM NIELSON: Good morning...it's still morning. My name is Jim Nielson. I live at 12015 NE 113<sup>th</sup> Street, and I'm here concerned with the urban holding overlay and want to go on record as to my concerns. Past Commissioner Pridemore put this overlay into several years ago and I've been listening to what you've been saying and discussing and would like to know what is going to proceed and what is going to happen. Also, my mother lives at 12508 NE 117<sup>th</sup> Avenue, and her property is involved in this overlay. She's 93 years old and can't do anything with this property. So it is a big concern. Everything is being developed around where I live by developers and like this surcharge that Mr. Lowry's talking about is...the developers are already paying for everything and then you're going to put more of a surcharge on to each lot, or whatever you are going to do, when a developer is already paying for it all. That's just my question.

STUART: To answer the question, as far as the arterials and collectors, which is what we're talking about, they already pay for everything inside their development, you're right, but as far as the arterials and collectors typically it's anywhere between...it's about 30 to 35 percent is the private share of the arterials and collectors, and 65 to 70 percent is paid by the general public. So they aren't paying everything as far as the connectors, the intersection, and those kinds of things. Those are the things that we're trying to look at to say that if we as a public don't have all the money that's needed for that right now, how can we partner up with them? That's what we've been figuring out with them.

NIELSON: Okay. Thank you.

CHESTER KNAPP: Just a quick question for staff. Chester Knapp, 1788 57<sup>th</sup> Street, Washougal, Washington, 98671. On these voluntary development fees that the developers would be agreeing to pay on these areas, what is the timeframe and the realm that you see of us actually getting some estimates of what those numbers would look like?

LOWRY: What's contemplated is—and I've been saying developer agreements; the statute calls them development agreements...so a change in terminology—the concept

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is...we have a consultant who is currently working on that issue and it's anticipated, I think, within two months we should have some idea, and then the development agreements would put a lid on how much the new fees could be charged to the developments. The exact amount wouldn't be known until it was taken to the legislative process to adopt the enhanced fees.

KNAPP: Thank you so much.

BOLDT: Could I have...and some of you...I'll just do one more panel and I'll get to you. I've a method here. Elizabeth O'Connell, do you want to speak? I guess not. Dave Wechner? No? Also, Richard Rylander.

DAVE WECHNER: Hello, my name is Dave Wechner with AKS Engineering and Forestry; business address is 12011 NE 99<sup>th</sup> in Vancouver. We submitted some written testimony and after hearing Rich Lowry recommend to you to extend the hearing time and the ability to review that written testimony, I just want to direct your attention to that and so I'll keep my comments brief. We've focused on sewer district service for areas K, L, and M, and property that we're contemplating developing in that area has been offered service from both the City of Vancouver and Hazel Dell Sewer District. I guess that's nice in one regard, but there are significant cost differences between the two sewer district providers and we'd like the board to consider some of those factors in lifting urban holding. The primary issue has been transportation, but sewer district service is one of the issues we would like you to consider. So review our letter and have your staff give us a call if you have any questions. With that, I'll close.

BOLDT: Thank you.

MORRIS: Mr. Wechner, I thought your service providers were your choice. I don't think we tell you which one you have to use, do we?



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WECHNER: You're going to be faced with a district amendment and annexation to the Clark County Regional Wastewater District application that would normally go to the Boundary Review Board, but I think the Board of Commissioners will be reviewing that annexation application –

MORRIS: Okay, thanks.

WECHNER: – but it's also tied to the urban holding areas.

MORRIS: Thanks. I guess I didn't know why we had the letter...thanks.

WECHNER: Vancouver didn't expand in the area because it was urban holding and Hazel Dell Sewer District hadn't applied to expand their district so right now we're sort of in no man's land.

MORRIS: Okay, great.

LOWRY: This issue is collateral to these [inaudible] because under event the board could find that sewer service is available.

RICHARD RYLANDER: Hi, my name is Richard Rylander. I'm a resident of 11416 NE 177<sup>th</sup> Circle, Battle Ground, Washington, 98604. My wife and I recently returned to the area after having been absent for seven to eight years; we previously were residents for fourteen years near Vancouver Mall. We originally started the Walnut Grove Neighborhood Association and were quite involved with a number of development situations in that particular area. My question or comments relate to the portion of the map that appears to be designated surrounding the Battle Ground area. It wasn't clear to me which of these zones, if any, G through M applied to that particular section, or not.

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STUART: It doesn't. The language under urban holding -- please correct me if I get sideways on this, but the language as I understand it for urban holding for Battle Ground urban growth boundary is that it will be lifted upon annexation by the City of Battle, and the Battle Ground determines...since they're going to be the service provider in that area, they then decide alright, how are we going to extend our services out? How can we make sure that happens? And then when they annex that into their service boundaries, it's open for business.

RYLANDER: Okay, because as I understand it the urban growth boundary review is going on right now and had some discussions on the various maps and so we want to know which cases would actually extend the boundaries that are in the Battle Ground urban growth further south at this particular state, and do some rezoning, etc., because even within the color coding that's there, the color codings appear to be inaccurate even with the Battle Ground zoning for what's actually occurring with that area. So really then I would be correct in saying that the resolution or the discussion you're having today really doesn't relate specifically to that Battle Ground area.

STUART: No. It's the Vancouver urban growth boundary.

RYLANDER: I will curtail my comments.

MORRIS: Welcome back.

BOLDT: Okay, I've held them off long enough. Randy Printz, James Howsley, and Steve Horenstein.

MORRIS: Gentleman, it's not personal, but I do need to take a break for just a second.

BOLDT: And gentleman, it's not personal, but I want to get everybody to testify so you have like six minutes.

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STUART: And it isn't personal, but I wouldn't call any of you gentleman.

[Laughing]

RANDY PRINTZ: I've got to be over at Good Sam in about 45 minutes for some fun tests so I will be very brief. I think a couple of things still that are worth noting, and Commissioner Stuart sort of brought them up—the basic tenant of GMA is to supply an adequate supply of land for the population projections that we're given by OFM. We been at this and the last time we added land was in 1994, we've been at this for twelve years...we've eaten up twelve years of supply and have not added any. GMA says you've got to have a twenty year supply. The cases that are out there, in fact some fairly recent cases make it very clear that you cannot choose a level of service for concurrency that is high enough to where it prohibits growth, where you just say well, we'll just set either through urban holding or some other mechanism we'll set the level of service at an unrealistic level that we can't fund and just sit there and say well, we don't have any money so we're not going to move the boundary or we're not going to remove urban holding. The cases are pretty clear that you cannot do that. Another thing I think that at least is good for guys to be aware of, which you probably are, is—and, again, the cases are very clear on this—the county, this board, the three of you have very broad discretion in what you do within the parameters of GMA, and you also have a very wide array of tools at your disposal; asphalt is not the only tool that you have. There are transportation demand strategies; there's transit; there's multi-modal; there's asphalt—there are a whole bunch of tools in the box and I think the cases are pretty clear, both from the Growth Management Hearing Board and the court, that you can choose some of those strategies; you can't just choose a strategy and then just ignore it for twenty years and then see that it didn't work, and say well, that didn't work. You have to periodically check it. Those are also tools in the box and that's probably a point more not for urban holding so much as it is for the comp plan update, but to the extent that we are adopting through these DA's and

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the contingent lifting today of a strategy to address some of these issues. I think those things are tools in your box.

One point...Rich talked about urban holding and the Growth Management Hearings Board decision, which said that was okay. I think it needs to be very clear, however, that they did not say that this urban holding, and that the challenges to this urban holding, were either merit-less or we would not have prevailed. As the board is very well aware, they dismissed those appeals to the urban holding to go through the process that all of us, at least at this table and many in the audience believed would be culminated last year and we are still here. It is my firm belief that urban holding as it is currently drafted would not survive judicial scrutiny because there isn't a requirement to add any land for any period of time. In this case, and I'll be very brief, we have spent a good deal of time with your staff, who have worked very cooperatively with us, as well as Lynn Hicks from the school district, and I do believe that the framework that you have in the ordinance today will provide a relatively expeditious process to get us out of urban holding, at least in these areas. So with that, unless you've got some questions, I'll be done. One thing I would like to say is that in the ordinance...in the letter from the school district's attorney and those five bullet points listed here, which talks about a suitable security interest such as [inaudible] credit, that security interest is securing the increased amount of TIF, or in this case PIF. It's not that four developers are going to go out and secure a twenty million dollar school site, and Lynn is here and can certainly clarify that, but that is the intent of that. At least that's our understanding and I think that would be consistent. Thank you very much.

JAMES HOWSLEY: Chairman Boldt, Commissioner Stuart, for the record, James Howsley. I think Randy covered my comments pretty thoroughly. Again, we look forward to reviewing the ordinance and getting our written comments to the board for next week. Just one other area that I would like to address on a going forward basis—and I really appreciate all the hard work that your staff has done in working with us in trying to find some tools to get us out of the urban holding in the 119<sup>th</sup> area—would be hopefully

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getting some direction from the board to use this type of model and planning going forward for the 179<sup>th</sup> area, and it's my hope that we can get some direction to move forward with lifting the urban holding in that area as soon as possible as well. With that, I will conclude my comments.

STEVE HORENSTEIN: Thank you. Mr. Chairman, members of the board, Mr. Printz and Mr. Howsley said everything I told them to say so I can be quite brief. We still haven't gotten numbers on the transportation improvements. The devil is in the details. We need to be realistic about some of these costs and what really needs to be done now as opposed to what needs to be done a long time from now, even though it might be within this twenty-year cycle and we're looking forward to a reasonable approach to what those costs are. Thank you for your patience in working with us all this time.

BOLDT: Thank you very much. Thanks for your comments.

STUART: Mr. Chair, I just want to say that I kid you guys about it, but thank you for all your work on this and working with our staff and with the school districts to try to come up with some creative solutions on this.

BOLDT: Lynn Hicks and Mary Vagner.

LYNN HICKS: Hello, I'm Lynn Hicks from the Battle Ground School District. Mary had to leave so she's not here right now. Commissioners, it's good to see you all again and thank you for allowing time for this testimony today. Battle Ground School District also appreciates all the time you've given us in dealing with the issue of urban holding. Lifting the urban holding will have a huge impact on our school district and you're well aware of that. We really appreciate your help in encouraging the developers to work with us to come up with options and solutions for dealing with this growth. We know that growth is coming and we welcome growth in our school district because that's the only way that we can sustain and improve our school district, but we like it to be managed so urban holding

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is one of those management tools. Development agreements can be management tools for us also so we look forward to getting more involved in those.

Just to catch you up-to-date on where we are right now, we have met with developer representatives two or three times and you have before you some of the options that we have generated in those meetings. We've talked about property and we've talked about increased fees or some sort of payments that will help us to fund the facilities that we need for our students, but we don't have any details on that yet and, Commissioner Morris, your questions on the traffic impact and what the details are on those, I have those same questions on how the development agreements will work with the developers. So there's nothing I've seen in writing other than what you have before you today that delineates out the details of those agreements. So that's where we are on that issue.

The other issue that is looming before us is our May 16 levy election and, as you know, we failed our February election and we have it on the ballot again May 16. The levy is an operating levy; it's not for capital facilities. It's to help us operate our schools. It pays for teachers; it pays for principals, classroom supplies, and maintenance. Without that levy, our district will be hurting. Right now, because of the timing of the levy, we're laying off teachers. We're going to layoff between forty to fifty teachers—the board just passed a resolution on that last week...and probably twelve assistant principals we also have to lay off just because of the timing. They'll be hired back if the levy passes on May 16, so that would definitely be the good news. But as a district, putting those two things together—the lifting of the urban holding and the levy...the timing of the levy—is real difficult for us right now. So bottom line, I'm encouraged by the developers coming and wanting to work with us and they've been great, they really have, but we don't have a lot of details on that, and the results on May 16 could have a real positive impact on this whole situation or it could add a complication to it. I'd be glad to answer any questions you might have.

BOLDT: Thank you.

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MORRIS: We have a letter that was written to Brian Wolf, James Howsley, and Randy Printz, from the Allen Law Office and it outlines five specific areas. Are those –

HICKS: Correct. Those are the areas I'm talking about.

MORRIS: Are those...this is accurate then?

HICKS: It is, but that's the last written piece of information that we've done so far.

MORRIS: Okay, great. Thanks.

STUART: There was a question raised and Mr. Printz actually raised it and said you might be able to clarify for us as far as number 5, a suitable security interest; that the security interest...he was saying it has to do with assuring that the higher level of impact fees will get paid. Is that what the –

HICKS: You know I can't really clarify that with you right now. Maybe he thinks that I could, but I'm not prepared to clarify that at this moment.

BOLDT: Can you get back to us?

HICKS: I'd be glad to. You bet.

BOLDT: Thank you. Dave Phyllis didn't say anything? Okay. Brian Snodgrass?

BRIAN SNODGRASS: Good afternoon, Commissioners. We just received the resolution yesterday so I'll read some brief remarks and then submit for the record just a brief letter that captures some of those and we may, depending on what changes there are to the resolution, submit some additional comments as necessary in the period after that. I

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wanted to just speak very briefly about the—well, first off let me express our appreciation for a lot of the work that has gone into this stage. We haven't been party to this process, but certainly it has been a big effort in terms of various parties—service providers and developers meeting recently—that seem to have made some headway.

The basic concern that the city has is regarding the particular...the biggest concern is regarding the timing of this. The areas that you're contemplated for contingent removal are about 1,000 acres, it appears G through M, all with the Vancouver UGA; all added in the 2004 comprehensive plan about 18 months ago. In addition to those 1,000 acres in the comprehensive plan update, which are currently scheduled, as I understand it, to complete within 6 months, there is perhaps 10,000 acres in Alternative 2 countywide. A substantial portion of those—I don't know what the acreage is—are in fact in the Orchards area immediately adjacent to these urban holding areas. So the over-riding concern, I think, from our standpoint is why aren't these two very large processes being looked at in a more fully integrated fashion, particularly given the relative consistencies in schedules of the comprehensive plan finishing within six months. Some of this concern is driven by the magnitude of what we understand are the service issues. As you know, when this issue was first...the urban holding lifting was first raised about a year ago, there was some pretty pointed testimony in the record by various service levels about how service levels would be diminished significantly if this went forward. At that point the comprehensive plan wasn't in particular focus and future expansions weren't even known. Now at least, although nothing is final, there are of course some alternatives to look at. So what we really urge you to do is to consider these urban holding changes as part of the comprehensive plan and defer your decisions until then. From what I understand from the resolution and discussion today, the implementation of the resolution through development agreements and TIFs and so on is going to take some time.

So by making your decision now, you're effectively...it appears to be limiting the scope of those service issues to strictly schools and traffic when, in fact, there are other service providers who appear to have—in the written record at least—expressed very serious



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concerns last year. It also appears that the scope of improvements, if you adopt the resolution now, would be limited to the impact fee changes and development agreements. It is possible—and I don't have any knowledge of this or suggestions—that there may other tools that you would want to use and need to use also, given the scope of the larger comprehensive plan update that's sort of sitting out there and not really addressed with this. So that is our really over-riding concern and all I have to bring for you in testimony today.

BOLDT: Okay, can you get...you'll probably have some time to get the remarks to Mr. Lowry?

SNODGRASS: Yes.

LOWRY: I might reply real briefly that it is contemplated that the work in terms of the TIF update would be done in conjunction with the update. All that the development agreement would do is would have some sort of reasonable lid on it so there would be an amount of predictability in terms of how large the increase could be. But the TIF work would be done in conjunction with the update and not simply for the current urban holding areas.

BOLDT: Thank you. Heidi Rosenberg?

HEIDI ROSENBERG: Good afternoon, I'm Heidi Rosenberg with the Vancouver School District. I'm the Facility Planner. I wanted to say thanks for soliciting our input regarding this policy and wanted to...we've actually been talking about lifting urban holding for about over a year now and the district provided a letter response to Rich Carson and the board in May of 2005 – tells you how long we've been working at this. I just wanted to summarize real quickly that we're probably the least effected service provider by this. I think there's an area of about 60 acres -- it's that area A that's in the Vancouver School District and the majority of our district is already within the Vancouver Urban Growth

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Area, but I did want to let you know that it does affect our school district and the other school districts in addition to Battle Ground. I think I just kind of wanted to show a little bit of solidarity, I guess. In terms of growth in general, I think none of us are opposed to growth by any means. We're just looking for tools that allow us to accommodate it in a timely fashion. Our tools for being able to build schools include going out for bonds and those are time-dependent so even for a school district like the Vancouver School district that has had bonds repeatedly over the last 15 or 16 years, it takes awhile to spend down those bonds and be able to go out for another round of bonds in terms of growth. So timing is a really critical issue for all of us and so I would just like to make sure that you accommodate for that, and the tools that you use for accommodating growth. Thank you.

BOLDT: Okay, thank you. Can you...well, we need to –

STUART: Super quick question. Have you read the Battle Ground School District's letter talking about the tools that it is proposing for use in lifting the urban holding?

ROSENBERG: Yes, and –

STUART: Are you supportive of those tools?

ROSENBERG: Yes.

STUART: Excellent. Thank you.

BOLDT: Thank you. Tim Funk, Nancy Blair, and Denise Larson – I don't know who wants to speak there, but all three are welcome.

TIM FUNK: Hi, my name is Tim Funk. Several years ago I lived in Clark County for ten years. I hope to live in Clark County again this year when my wife and I will be retiring. I want to start by thanking all of you for putting up with the endless challenges that you

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have and I commend you for somewhat retaining your sanity through it all. Like I said, seventeen years ago a friend of mine, Doug Runkle, and I purchased five acres just north of the Clark County Fairgrounds. That particular five acres is on the west end of subarea C and I think subarea C is approximately eighteen acres that is zoned R-12 and has the overlay on it... actually has been on it since the overlay was initiated. So we purchased that five acres about seventeen years ago; it sits directly across basically from the fire station and the new administrative offices, which the county put in. We're just on the north side of 179<sup>th</sup>. Again, I'm not speaking for any of the other property owners within that eighteen area section; I'm only speaking for Doug and I. Subsequent to our purchasing that, actually within the last five years, the zoning was changed to R-12 and approximately two to three hundred acres was added west of I-5 and north of 179<sup>th</sup> to the urban growth boundary. Also within the last five years, as you already know, the Fairgrounds has been significantly developed. You've put in the Amphitheater, and many new buildings, a lot of new parking, a new fire station and the new county offices. I think probably associated with all those changes, the 179<sup>th</sup> interchange and 179<sup>th</sup>, at least down to the fire station, have been significantly improved and I think at the same time many of the development services, i.e. sewer, electricity, and all those things have been added to the point where I believe all of the facilities, as well as adequate transportation, is available to that subsection C. My request actually for you is that we don't get...or that we be treated as subsection A is treated and that you left the overlay at the same time you do subsection A. My primary concern is that our piece of property, and actually that entire 18 acres, has been in the urban growth boundary for a seemingly endless amount of time. All of the adjacent properties that were with us in the urban growth boundary when we bought it 15 to 20 years ago do not have the overlay on them. I think most of them are zoned commercial or industrial or something like that, and for some reason that particular 15 to 20 acres got the overlay. It appears to me in logically assessing it, that it was just that some mapmaker just wanted to draw a straight line rather than jog and include...and exclude the 18 and exclude the 18 acres from the overlay. My request of you is that it be treated as subarea A. I really want...well, my kids and more than likely my grandkids probably would be happy to see you not remove the overlay and have me get embroiled in

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the, I don't know, what seems to be an endless debate about whether they're going to put an interchange in the Battle Ground road. I would prefer that we not get embroiled in that. That was rampant when I was here 15 to 20 years ago and I'm fearful that it may be here another 15 to 20 years. As I said, my grandkids would appreciate if you kept the overlay; I would appreciate if you would remove it.

BOLDT: Okay, thank you. Can you get with Marty then?

FUNK: Can I?

BOLDT: Yes, you can sometime after. Steve Madsen and Jerry Bivens?

STEVE MADSEN: Thank you, Commissioners, Steve Madsen, Governmental Affairs Director for the Building Industry Association. I just saw the proposed ordinance for the first time this morning. My [inaudible] will try to submit some additional comments if I think its necessary, but my initial reaction is...well I have two things, but I'll comment first about the specific language of the proposed ordinance and then kind of a more general comment. First comment regarding the specific language of the ordinance deals with the Board Action provisions...that would be section 6, specifically Provision 2b and my concern is—and certainly Mr. Lowry can speak to this—but my concern with that provision is that it seems unusual to put a vesting provision in...I mean typically a project is vested upon a complete dev app and in this case the application apparently isn't deemed complete...I mean it could be never because there has to be an approved development agreement in place before the rights even vest and what I'm suggesting is that given the timeframe that could take, there could be a lot of underlying changes, for example underlying zoning or something like that.

STUART: I think the reason they put it in is because of our contingent vesting laws in Clark County that in Clark County you can vest upon pre-application for up to 6 months and so I think the idea was to deal with the pre-app contingent vesting specifically.

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LOWRY: That's accurate and also it's not really establishing a vesting rule; it's just reflecting what existing vesting rules would say. You can't vest to a zone that doesn't apply to your property and so this just says that vesting would occur at a point in time when you're no longer in urban holding.

STUART: I'd love to hear suggestions as to how we could clarify that language to make it just make sense.

MADSEN: Coming from a less sophisticated county, I'd probably be the wrong person to make suggestions in that particular area. I'll leave that to better minds than me. The other comment I have is more general and it refers primarily to the letter from the Battle Ground School District and our association isn't going to oppose any forward action the commissioners want to take on this, but what it points out to me is that an ill-conceived statute or ordinance generates ill-conceived results. What bothers me about the results that this -- and by ill-conceived ordinance what I mean is that the provision in the ordinance that lifts schools and fire and public safety to a level of concurrency virtually equal to that of transportation. Certainly with this section...well --

MORRIS: Excuse me, are you talking about what we have in the notebook or are you talking about the existing language on urban holding that was adopted in '04?

MADSEN: I'm talking about the September '04 plan.

MORRIS: That's what I thought, thanks. I just thought it would be good to clarify.

MADSEN: Sure. By ill-conceived ordinance what I mean is if you look at the five demands that the school district is making of the development agreements, there could easily be a section in there for the sheriff's department; there could easily be a section in there just like it for the fire department if they were aggressive enough to probably come

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in and demand something like that, based on the language of the '04 plan. So my concern is...and by the way, our association is probably put up close to \$5,000 towards the Battle Ground levy efforts this year, so I'm not clear at what point Item 3 can ever be met unless there's some specific dollar figure involved that simply says support of voter-approved bonds that are necessary to build schools. So those vaguenesses are what I mean by ill-conceived results. Clearly, there's been a lot of behind-the-scenes discussions between development attorneys and stuff and that's great. Gets you to where you want to be. My concern is that there's a lot of transparency issues there. There's a lot of...for those folks who are not represented by Mr. Howsley or Mr. Printz, I think there are some real transparency issues there. So what I would suggest for the commissioners—and certainly will be providing some input on this as well—that in moving forward with the new, and I assume there is going to be a new urban holdings kind of tool in the upcoming comp plan that schools public safety be taken into account, but that we retain some flexibility and I think—I certainly would not want to speak for Mr. Printz, but I would suggest that what he was eluding to is potentially the very language that I'm speaking about as not being able to survive legal challenge under the '04 plan. So, anyway, those are my comments. We certainly want to support the schools and public safety and quality of life issues, but we also want to make clear the GMA has very specific concurrency requirement and by definition excludes other factors as requiring direct concurrency.

BOLDT: Thank you. Mr. Lowry, we're way over time now, but the written comments...should they be directed to you or Mr. Snell?

LOWRY: Because of my total incompetence when it comes to records management, I would suggest that they go to Mr. Snell and I think we can commit to have a final draft at the staff level available by four o'clock this afternoon.

[Laughter]

SNELL: ...got my afternoon planned.

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BOLDT: Okay, written comments can be...we will direct them to Mr. Snell if they come to us and they will be forwarded to you, and we have to make a decision...next week is pretty well tied up. I don't want to waste anybody's time for next week. We're not going to get through it next week even. May 9<sup>th</sup> is our first available time for a possible action on this. Would that be okay? May 9<sup>th</sup>? Okay? Would you like to continue the hearing until May 9<sup>th</sup>? I would like to continue the hearing. Next week I won't be here, but –

MORRIS: Are you closing the oral record?

STUART: Yeah, I was going to ask...

BOLDT: You know, I'm not too sure because since it is such a flux that it may change a lot, I'm kind of comfortable with that. We really have to...I guess I would hope and I would ask that written comments could be presented to Mr. Snell this week so that we can have a full week of getting the ordinance that's going to be presented to us to the public on our web page so they have a full week to look at it, and then come back May 9<sup>th</sup>.

SNELL: Just a point of clarification, the edits Mr. Lowry has we can get those together and have that ready this afternoon.

BOLDT: Okay, but there will be more coming?

LOWRY: Depending on what kind of input we get.

STUART: But we'll have something we can publish, something we can put out on the website and get to people for them to look at?

LOWRY: Yes.

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BOLDT: Okay, thank you very much. Is there a motion?

STUART: You bet. Thank you, Mr. Chair. I move that we continue the public hearing on Urban Holding to May 9, 2006, at 10:00 a.m.

MORRIS: Second.

BOLDT: Thank you. It's been moved and seconded to continue the public hearing on Urban Holding to May 9<sup>th</sup> at 10:00 a.m. All in favor say aye.

STUART: Aye.

MORRIS: Aye.

BOLDT: Aye. All opposed? If you're bored tonight, welcome to our hearing tonight at 7 o'clock at Hockinson...and meeting adjourned. [Motion carried. See Tape 269.]

COMMISSIONER COMMUNICATIONS

There were no comments.

**2:00 P.M. PUBLIC BID OPENINGS**

Present at bid opening: Louise Richards, Board of County Commissioners Office; and Mike Westerman and Allyson Anderson, General Services-Purchasing Department

BID OPENING WO 15294

Held a public hearing for Bid Opening WO 15294 – Upper Salmon Creek Interceptor (Segments 4 & 5). Mike Westerman, General Services, stated that it was the Purchasing Department's intention to award Bid WO 15294 on May 2, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 269)



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BID OPENING 2438

Held a public hearing for Bid Opening 2438 – Rail Line Improvement Program. Mike Westerman, General Services, stated that it was the Purchasing Department's intention to award Bid 2438 on May 2, 2006 at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6<sup>th</sup> Floor. (See Tape 269)

BOARD OF COUNTY COMMISSIONERS

Marc Boldt, Chair

  
Steve Stuart, Commissioner

  
Betty Sue Morris, Commissioner

ATTEST:

  
Clerk of the Board

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